IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12866 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NARENDABHAI RAMUBHAI DESAI

Versus

ANJNABEN DESAI

Appearance:

1. Special Civil Application No. 12866 of 2003

MR RE VARIAVA for Petitioner No. 1

MR KIRTIDEV R DAVE for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE A.R.DAVE

Date of decision: 01/10/2003

ORAL JUDGEMENT

Rule. Service of rule is waived by learned advocate Shri K.R. Dave for the respondents. At the

request of the learned advocates, the petition is finally heard today.

2. The short question with which this court has to deal with is whether the amount of maintenance, which has been awarded to daughter Chintal, respondent No. 2 herein, should be modified in view of the fact that now the entire expenditure of respondent No. 2 is being borne by the petitioner.

3. The petitioner-husband had submitted an application below Ex. 21 praying that the amount of maintenance to be awarded by him should be reduced for the reason that during the pendency of the litigation, respondent No. 2 had started staying with him, whereas at the time when respondent No. 2 was awarded maintenance, she was staying with her mother, namely, respondent No. 1.

4. The trial court did not think it proper to make any change in the amount of maintenance and, therefore, being aggrieved by the order dated 26.6.2003, the petitioner-husband has approached this court.

5. At the time of hearing of this petition, learned advocate Shri Variava has submitted that the trial court had awarded maintenance to the tune of Rs. 2,000/- per month for respondent No. 2, as the said daughter was maintained by her mother, i.e., respondent No. 1 at that time. Now the said daughter is studying in F.Y.B.Sc. and she is staying in a hostel and the entire amount of expenditure is being incurred by the petitioner for her education, etc.

6. Daughter Chintal Desai, respondent No. 2, is also present in the court and she has submitted that now she is being maintained by the petitioner father. The said fact had also been admitted by learned advocate Shri Dave appearing for the respondents.

7. Looking to the aforestated undisputed fact, the impugned order dated 3.5.2003 is modified to the effect that the petitioner shall now not make payment of Rs. 2,000/- per month towards maintenance of respondent No 2.

The petition stands disposed of as allowed. Rule is made absolute to the above extent with no order as to costs.

(A.R. Dave, J.)

(hn)